

PATENT  
ATTORNEY DOCKET NO. 044525-5001-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Philip E. SILKOFF et al. )  
Serial No.: 08/827,703 ) Group Art Unit: 3312  
Filed: April 9, 1997 ) Examiner: William Deane  
For: METHOD AND APPARATUS FOR )  
THE MEASUREMENT OF )  
EXHALED NITRIC OXIDE IN HUMANS )

Assistant Commissioner for Patents  
Washington, D.C. 20231

Box Non-Fee Amendment

SECOND INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicants bring to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed, to the best of the undersign's knowledge, before a first Office Action on the merits in the above-captioned application. Accordingly, Applicants do not believe that a fee is due for filing this paper.

A copy of each of the listed documents is attached.

Applicants respectfully request that the Examiner consider the listed documents and evidence that consideration of relevant portions thereof by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If it should be determined that any of the listed documents do not

constitute "prior art" under United States law, Applicants reserve the right to present to the office the relevant facts and law regarding the appropriate status of such document.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.116 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

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Dated: August 18, 1998

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